

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA *

Plaintiff

* CRIMINAL NO. 97-76(DRD)

vs. *

*

*

WILLIAM SOTO BENIQUEZ (1) *

Defendant *

*

.....

MOTION IN COMPLIANCE WITH COURT ORDER;
REQUESTING LEAVE TO WITHDRAW AS COUNSEL; AND FOR
ORDER TO PICK UP FILE

TO THE HONORABLE COURT:

COMES NOW THE UNDERSIGNED COUNSEL, and very respectfully prays and states as follows:

1. We have received a communication purporting to be from defendant, since it has his signature, but that it is written in English, and typewritten. This communication requests defendant's legal file. From the time that we have known our client, which is eight years, we can safely assume that this letter was not prepared by him, specially since our client can barely read Spanish and does not type. Further, knowing that it is not acceptable in the Bureau of Prisons for other inmates to perform work for each other, we have not responded to the same nor forwarded documents which could get our client in trouble by giving his legal documents to a jailhouse lawyer.

2. We did speak to defendant over the telephone, who inquired about the deadlines of the 28 USC §2255 motion and we informed him that we were in the process of preparing the same, that it would be timely filed. As to his request for the file, we informed Mr. Soto that his file contains thousands of pages, probably four or five boxes of materials compiled throughout the years, that most probably the institution would not allow him to receive all of it at the same time. That if he wanted, he could send a relative to have it reproduced, that we could send it for reproduction, because we do not have the manpower or resources to reproduce such an enormous case. No one has contacted us to reproduce the file.

3. Despite this information herein submitted, defendant, or someone on his behalf, has prepared a §2255 pro forma petition and filed it with the court. Since one of the allegations presented is ineffective assistance of counsel, we deem appropriate to move to withdraw from the case, not only because such allegation has no merit, but also because we would be in conflict in the presentation of such allegation.

4. We seek permission of the Court to deposit the file in the Clerk's Office for pickup and an Order to defendant to make arrangements for the pickup, or an Order to the US Marshal Service to deliver the file to the institution. These boxes weigh approximately 50 or 60 pounds each.

Commercial delivery of such file without an assurance that defendant will be allowed to receive all of it is a waste of time and resources. Considering the weight and bulk of the delivery, the costs would range anywhere from \$600.00 or \$800.00 that we are not prepared or able to assume. In any event, no one has claimed to come and pick up the same at our office or pay for the delivery.

IN VIEW OF THE FOREGOING, we hereby request the Court's Order be deemed complied with, the request for withdrawal be allowed, and that leave to deposit the file at the Clerk's Office be given so that pick up can be arranged either by defendant or through the US Marshal Service.

RESPECTFULLY SUBMITTED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this date, April 18, 2005, I have filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: AUSA Jacabed Rodríguez Coss at jacabed.rodriguez-coss@usdoj.gov, we also notified Mr. Soto-Beníquez by regular mail, at his address.

S/Marlene Aponte Cabrera
MARLENE APONTE CABRERA, ESQ.
USDCPR 208603
MSC 128
SIERRA MORENA 271
LAS CUMBRES
SAN JUAN, PUERTO RICO 00926
Tel. (787)281-8488; 547-5999
firebug@prtc.net